

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CRIMINAL ACTION
v.)	
)	No. 07-20167-08-KHV
CHARLES R. SINGLETON,)	
)	
Defendant.)	
_____)	

ORDER

On June 5, 2009, the Court sentenced defendant. On June 24, 2009, defendant filed a notice of appeal. This matter is before the Court on defendant’s letter (Doc. #596) received November 23, 2009, which the Court construes as a motion for new counsel. Tenth Circuit Rule 46.3(a) provides that “[t]rial counsel must continue to represent the defendant until either the time for appeal has elapsed and no appeal has been taken or this court has relieved counsel of that duty.” Under Rule 46.3(a), the district court has no authority to relieve counsel of his duty and/or appoint new counsel. The appointment of counsel on appeal remains effective through the filing of a petition for certiorari to the Supreme Court, if requested by the client, or until the Tenth Circuit grants a motion to withdraw by counsel. See Criminal Justice Act Plan for the United States Court Of Appeals For The Tenth Circuit, Addendum I to Tenth Circuit Rules Effective January 1, 2009.¹

¹ In his letter, defendant also requests information about filing a Section 2255 motion. Absent extraordinary circumstances, the orderly administration of criminal justice precludes a district court from considering a motion under 28 U.S.C. § 2255 while a direct appeal is pending. See United States v. Scott, 124 F.3d 1328, 1330 (10th Cir. 1997); United States v. Cook, 997 F.2d 1312, 1319 (10th Cir. 1993); Advisory Committee Note to Rule 5 of the Rules Governing Section 2255 Proceedings. To the extent defendant seeks to file a Section 2255 motion, he should comply with the applicable deadlines set forth in 28 U.S.C. § 2255.

IT IS THEREFORE ORDERED that defendant's letter (Doc. #596) received November 23, 2009, which the Court construes as a motion for new counsel, be and hereby is **OVERRULED**.

Dated this 2nd day of December, 2009, at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge